

## Message Text

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ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 AID-05 OPR-02 JUSE-00 CPR-01

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DRAFTED BY L/M:HSBURMAN:MFM

APPROVED BY L/M:KEMALMBORG

AID/GC:NWILLIAMS

ARA/CAR:DCNORTON

A/OS:VMMCGUGAN

L/M:HFSHAMWELL

JUSTICE - BRISTAU (SUBS)

----- 091702

O 021822Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY GEORGETOWN IMMEDIATE

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E.O. 11652: N/A

TAGS: ASCH, PDIP, GY

SUBJECT: CIVIL SUIT AGAINST CHAIRPERSON OF SCHOOL BOARD

REF: A) GEORGETOWN 404

1. IN VIEW OF POSSIBILITY (PARA 3 REFTL) THAT GOG MAYTAKE  
-- POSITION THAT SCHOOL BOARD IS "DIPLOMATICALLY  
IMMUNE ESTABLISHMENT", DEPARTMENT RECOMMENDS THAT EMBASSY  
REQUEST FOREIGN OFFICE TO CERTIFY OFFICIAL STATUS OF SCHOOL  
BOARD TO COURT, IF SUCH A PROCEDURE EXISTS UNDER GUYANESE  
PRACTICE. IF SUCH A CERTIFICATION MADE, LEGAL PLEADING AS  
SUCH MAY POSSIBLY NOT RPT NOT BE REQUIRED TO BE MADE BEFORE  
LOCAL COURT IN ORDER TO QUASH CIVIL ACTION AGAINST SCHOOL  
BOARD CHAIRPERSON.

2. IN EVENT PLEADING MUST BE MADE BEFORE COURT, DEPARTMENT  
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RECOMMENDS SCHOOL BOARD SEEK, WITH EMBASSY ASSISTANCE, EX-

TENSION OF TIME FOR PLEADING IN ORDER FOR DEPARTMENT TO BE FURTHER ADVISED ON ALTERNATIVE LEGAL DEFENSES AVAILABLE UNDER GUYANESE LAW AND EFFECT OF SUCH DEFENSES ON SCHOOL BOARD AND ON USG, SINCE USG INTERESTS MAY WELL BE INVOLVED IN VIEW OF POSSIBLE OFFICIAL OR SEMI-OFFICIAL STATUS OF SCHOOL BOARD UNDER GUYANESE LAW. WHILE ATTORNEY CLARKE MAY CONTINUE TO REPRESENT SCHOOL BOARD CHAIRPERSON, HE MAY

ONLY DO SO IN HER PRIVATE CAPACITY EXCEPT AND UNLESS HE IS AUTHORIZED IN ADVANCE TO REPRESENT HER INTERESTS AND/OR THOSE OF THE SCHOOL BOARD ON BEHALF OF RPT ON BEHALF OF USG. PRIOR AUTHORIZATION OF DEPARTMENT OF JUSTICE AND THIS DEPARTMENT REQUIRED BEFORE ANY PLEADING OR REPRESENTATION TO BE MADE BEFORE FOREIGN COURTS WHICH IN ANY MANNER INVOLVE USG OFFICIAL INTERESTS.

3. DEPARTMENT REVIEW OF STATUS OF SCHOOL BOARD: WE TENTATIVELY ARE INCLINED TO AGREE THAT SCHOOL BOARD MAY CONSTITUTE INSTRUMENTALITY OF USG UNDER LOCAL LAW. IN ANY EVENT, WE ARE AWARE THAT FAILURE TO ACHIEVE OFFICIAL OR SEMI-OFFICIAL STATUS OF SCHOOL BOARD COULD RESULT ULTIMATELY IN ATTEMPT BY GOG TO IMPOSE CONDITIONS PURSUANT TO LOCAL LAW AND REGULATIONS WHICH WOULD RENDER CONTINUED FUNCTION OF SCHOOL VERY DIFFICULT AND POSSIBLY UNFEASIBLE.

4. WE NEED TO BE INFORMED AS TO THE AVAILABILITY OF AND EFFECT OF ALTERNATIVE LEGAL DEFENSES TO THIS ACTION, INCLUDING FOR EXAMPLE, AVAILABILITY OF PLEA OF SOVEREIGN IMMUNITY OR THE APPLICATION OF OFFICIAL ACTS DOCTRINE OR COMPARABLE DEFENSE, AND ULTIMATELY, IN ADDITION, ADVICE AS TO AVAILABILITY OF AND ANTICIPATED EFFECT OF DEFENSES ON THE MERITS OF THE CLAIM, IF EFFORTS TO AVOID JUDICIAL PROCESS ARE NOT SUCCESSFUL. IN ADDITION, DEPARTMENT SHOULD BE ADVISED WHETHER SPECIAL APPEARANCE MAY BE POSSIBLE UNDER LOCAL LAW, WHEREIN REPRESENTATIONS MAY BE MADE ON BEHALF OF SCHOOL BOARD OR USG OBJECTING TO JURISDICTION OF COURT WITHOUT RPT WITHOUT HAVING SUBMITTED TO LOCAL JURISDICTION BY VIRTUE OF MAKING SUCH REPRESENTATIONS.

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5. PLEASE ADVISE DEPARTMENT CONCERNING ABOVE ASAP. WE RECOGNIZE TIME LIMITATIONS, BUT FOREGOING INFORMATION REMAINS NECESSARY IN ORDER FOR DEPARTMENT OF JUSTICE AS WELL AS THIS DEPARTMENT TO ASSESS EFFECTS OF APPEARANCE BEFORE FOREIGN TRIBUNAL WHERE USG INTERESTS ARE INVOLVED.

6. INFORMATION SHOULD ALSO BE SUBMITTED RE FEE SCHEDULES

PROPOSED BY ATTORNEY FOR SERVICES TO SCHOOL BOARD, AND  
FURTHER BIOGRAPHICAL INFO RE ATTORNEY CLARKE AND THE  
FIRM WHICH HE REPRESENTS. INGERSOLL

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## Message Attributes

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